



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2015-0678; FRL 9936-07-OGC]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (the "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to resolve two cases filed by the WildEarth Guardians ("Guardians") and Sierra Club involving EPA actions under the CAA Title V operating permit program. On January 7, 2015, Guardians and Sierra Club filed petitions with the Environmental Appeal Board ("EAB") challenging a Part 71 Operating Permit issued by EPA Region 8 on December 5, 2014, to Deseret Power Cooperative ("Deseret") to operate the Bonanza Power Plant ("Bonanza Plant")(In re Deseret Power Cooperative Bonanza Power Plant, CAA Appeal Nos. 15-1, 15-2). Under the proposed settlement agreement, Deseret would submit an application for a minor New Source Review (NSR) permit to implement the specific terms of the agreement; and EPA would draft and provide for public notice of the proposed permit.

DATES: Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION DATE].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2015-0678 online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; or by

hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Sara L. Laumann, Office of Regional Counsel, EPA Region 8, 1595 Wynkoop Street, Denver CO 80202-2466; *telephone:* (303) 312-6443; *fax number:* (303) 312-6859; *email address:* laumann.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed settlement agreement would resolve two cases filed by the WildEarth Guardians (“Guardians”) and Sierra Club involving EPA actions under the CAA Title V operating permit program. On January 7, 2015, Guardians and Sierra Club filed petitions with the Environmental Appeal Board (“EAB”) challenging a Part 71 Operating Permit issued by EPA Region 8 on December 5, 2014, to Deseret Power Cooperative (“Deseret”) to operate the Bonanza Power Plant (“Bonanza Plant”), a 500-megawatt coal-fired power plant located within the exterior boundaries of the Uintah and Ouray Indian Reservation in Utah. Under the proposed settlement agreement, Deseret would submit an application for a minor New Source Review (NSR) permit which would provide for installation of low NO_x burners with over-fire air controls, along with other operator-requested permit terms and conditions. The agreement also provides that if EPA Region 8 issues a final permit with provisions that are consistent with the settlement agreement: (1) petitioners would file motions to dismiss the EAB appeals; (2) EPA

would withdraw a proposed Prevention of Significant Deterioration Permit for the facility; (3) Deseret would withdraw an outstanding permit application; and (4) Deseret and Sierra Club would withdraw their respective and related FOIA requests. Under the agreement EPA would also state its plan to withdraw a proposed Prevention of Significant Deterioration Permit for the Plant. The proposed settlement agreement also provides that nothing in the agreement shall be construed to limit or modify any discretion afforded EPA by the Act or by general principles of administrative law in taking those actions. See the proposed settlement agreement for specific details.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA determines that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get a Copy of the Settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2015-0678) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information

(OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period.

Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA’s preferred method for receiving comments. The electronic public docket system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA’s electronic public docket, EPA’s electronic mail (e-mail) system is not an “anonymous access” system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the

official public docket, and made available in EPA's electronic public docket.

Dated: October 13, 2015.

Lorie J. Schmidt

Associate General Counsel

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